

FILED IN UNITED STATES DISTRICT
COURT, DISTRICT OF UTAH

SEP 17 2009

D. MARK JONES, CLERK
BY _____
DEPUTY CLERK

Bridget Ziegler
Attorney Pro Se
Utah State Prison
P.O. Box 250
Draper, Utah 84020

IN THE UNITED STATES DISTRICT COURT, DISTRICT OF UTAH
CENTRAL DIVISION

BRIDGET ZIEGLER,)	
)	Case: 2:09-cv-00832
)	Assigned To : Benson, Dee
Plaintiff,)	Assign. Date : 09/16/2009
)	Description: Ziegler v. Tubbs et al
v.)	
)	CIVIL RIGHTS COMPLAINT AND
DR. KENNON TUBBS, M.D. at the)	DEMAND FOR JURY TRIAL
Utah State Prison, individually;)	
DR. RICHARD GARDEN, M.D. at the)	
Utah State Prison, individually;)	
BILLIE CASPER, Grievance Coordinator)	
at the Utah State Prison, individually;)	
JOHN DOES 1-10, employees at)	
Utah State Prison, individually,)	
)	
Defendants.)	

JURISDICTION

1. Plaintiff Bridget Ziegler, is a citizen of Utah, who presently resides at the Utah State Prison, P.O. Box 250, Draper, Utah 84020.

2. Defendant Dr. Kennon Tubbs, is a citizen of Utah, and is employed as a physician at the Utah State Prison for the Utah Department of Corrections. At the time the

claim(s) alleged in this complaint arose, this defendant was acting under color of state law in that he is a physician at the Utah State Prison for the Utah Department of Corrections and is directly responsible for the wrongful actions alleged herein.

3. Defendant Dr. Richard Garden, is a citizen of Utah, and is employed as the Medical Director at the Utah State Prison for the Utah Department of Corrections. At the time the claim(s) alleged in this complaint arose, this defendant was acting under color of state law in that he is the Medical Director for the Utah Department of Corrections and is directly responsible for the wrongful actions alleged herein.

4. Defendant Billie Casper is a citizen of Utah, and is employed as the Grievance Coordinator at the Utah State Prison for the Utah Department of Corrections. At the time the claim(s) alleged in this complaint arose, this defendant was acting under color of state law in that he is the Medical Director for the Utah Department of Corrections and is directly responsible for the wrongful actions alleged herein.

5. Defendant John Does 1-10, whose true names are unknown and when true names are ascertained the pleadings will be amended accordingly, are citizens of Utah, and are employed at the Utah State Prison. At the time the claim(s) alleged in this complaint arose, these defendants were acting under color of state law in that they are employees for the Utah Department of Corrections and are directly responsible for wrongful actions alleged herein.

6. Jurisdiction is invoked pursuant to 28 U.S.C. Sec. 1343 (3); 42 U.S.C. 1983.

B. NATURE OF CASE

7. Plaintiff Bridget Ziegler is incarcerated at the Utah State Prison. Plaintiff suffers from multiple sclerosis and on or about March 12, 2009, Defendant Dr. Tubbs prescribed plaintiff “Copoxone” to stop the progression of the disease.

8. On or about March 15, 2009, Plaintiff was informed at pill line that Defendant Garden would not receive the “Copoxone” medication until Plaintiff was seen at the University Medical Center. Plaintiff was not scheduled for an appointment at the University Medical Center until four months later.

9. Plaintiff was provided Baclofen and Neurontin for pain, but did not receive the “Copoxone” medication that would slow down and suppress the progression of the disease.

10. As a result of Defendant’s decision not to provide Plaintiff with the “Copoxone” medication her multiple sclerosis condition has progressed and plaintiff’s right to receive proper and adequate medical treatment has been violated.

11. Due to the Defendants deliberate indifference to Plaintiff’s serious medical needs Plaintiff’s civil rights have been violated and she is entitled to punitive damages.

12. Plaintiff filed a grievance regarding the above referenced issue on or about March 22, 2009. Plaintiff received a reply on or about April 20, 2009, stating that Plaintiff records reflects she was receiving the “Copoxone” medication, which Plaintiff alleges is not true. On or about April 23, 2009, Plaintiff responded to the first level grievance. On or about April 30,

2009, Plaintiff was notified and informed that the grievance was not filed timely and was dismissed.

13. Plaintiff filed the second level grievance within 3 days of receiving the first level response. As a result of denying Plaintiff's second level grievance her due process rights were violated by Defendant Casper and Plaintiff is entitled to punitive damages.

C. CAUSE OF ACTION

14. Plaintiff alleges that the following constitutional rights, privileges or immunities have been violated and that the following facts form the basis for the allegations:

1. Count I: Plaintiff's Fifth and Fourteenth Amendment rights to due process equal protection is being denied based upon his not receiving the same privileges that commensurate with his classification level as he would receive if housed at the Utah State Prison.

2. Count II: Plaintiff's Eighth Amendment right to be free from cruel and unusual punishment has been violated by Defendants actions in that they are denying her medications that have been prescribed and which she needs as a slow down the progression of the degenerative disease of multiple sclerosis.

D. PREVIOUS LAWSUITS AND ADMINISTRATIVE RELIEF

15. Plaintiff has not filed any other law suits in state or federal court dealing with the same facts involved in this action.

16. Plaintiff has previously sought informal or formal relief from the appropriate administrative officials regarding the acts complained of herein to no avail.

E. REQUEST FOR RELIEF

WHEREFORE, Plaintiff prays for the following relief:

- a) Trial by jury.
- b) That counsel be appointed to represent the Plaintiff in this action.
- c) Punitive damages in the amount of \$10,000.00.
- d) Compensatory damages in the amount of \$10,000.00.
- e) Grant attorney fees and court costs for this action.
- f) Such other and further relief the court deems just and proper.

DATED this 6 day of August, 2009.

Bridget Ziegler
Bridget Ziegler
Plaintiff

DECLARATION UNDER PENALTY OF PERJURY

The undersigned declares under penalty of perjury that he is the plaintiff in the above action, that he has read the above complaint and that the information contained therein is true and correct. 28

U.S.C. Sec. 1976. 18 U.S.C. Sec. 1621.

EXECUTED at 9:30 Am on August 6, 2009.

Bridget Ziegler